

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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TIMOTHY W. WEISFLOG and LYNDA WEISFLOG,

24-CV-00129

Plaintiffs,

-against-

**AMENDED  
COMPLAINT**

CP HS HOTEL, LLC; CCM ASSOCIATES OF  
CLIFTON PARK, LLC; CP HOTEL, LLC;  
VEEDER HOSPITALITY MANAGEMENT, LLC;  
VEEDER HOSPITALITY SERVICES, LLC,

PLAINTIFFS DEMAND  
TRIAL BY JURY

Defendants.  
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Plaintiffs, complaining of the defendants by their attorneys, DE CARO &  
KAPLEN, LLP., trial counsel to THE SMITH LAW CENTER allege upon information and  
belief as follows:

**JURISDICTION AND VENUE**

- 1) At all times hereinafter mentioned, plaintiffs, TIMOTHY W. WEISFLOG and LYNDA WEISFLOG, were citizens and reside within the State of Virginia.
- 2) At all times hereinafter mentioned, defendant CP HS HOTEL, LLC (hereinafter "CPHS") was a limited liability corporation duly organized and existing under the laws of New York and doing business within the State of New York.
- 3) At all times hereinafter mentioned, defendant CCM ASSOCIATES OF CLIFTON PARK, LLC (hereinafter "CCM") was a limited liability corporation duly organized and existing under the laws of New York and doing business within the State of New York.
- 4) At all times hereinafter mentioned, defendant CP HOTEL, LLC (hereinafter "CP") was a limited liability corporation duly organized and existing under the laws of New

York and doing business within the State of New York.

5) At all times hereinafter mentioned, defendant VEEDER HOSPITALITY MANAGEMENT, LLC, (hereinafter "VEEDER MANAGEMENT") was a limited liability corporation duly organized and existing under the laws of New York and doing business within the State of New York.

6) At all times hereinafter mentioned, defendant VEEDER HOSPITALITY SERVICES, LLC, (hereinafter "VEEDER SERVICES") was a limited liability corporation duly organized and existing under the laws of New York and doing business within the State of New York.

7) At all times hereinafter mentioned, DONALD GREENE, was the sole member of defendants, CP HS HOTEL, LLC, CP HOTEL, LLC, and CCM ASSOCIATES OF CLIFTON PARK, LLC

8) At all times hereinafter mentioned, DONALD GREENE was and still is a citizen of the State of New York.

9) At all times hereinafter mentioned, AL STEVENSON was the sole member VEEDER HOSPITALITY MANAGEMENT, LLC and VEEDER HOSPITALITY SERVICES, LLC.

10) At all times hereinafter mentioned, AL STEVENSON was and still is a citizen of the State of New York.

11) At all times hereinafter mentioned, defendant CPHS owned property and premises and more specifically a hotel known as Homewood Suites by Hilton, including an enclosed dumpster area, accessed by a swinging wooden gate at the exterior portion of said premises located at 42 Clifton County Road, Clifton Park, Saratoga County, New

York.

12) At all times hereinafter mentioned, defendant CCM owned property and premises and more specifically a hotel known as Homewood Suites by Hilton, including an enclosed dumpster area, accessed by a swinging wooden gate at the exterior portion of said premises located at 42 Clifton County Road, Clifton Park, Saratoga County, New York.

13) At all times hereinafter mentioned, defendant CP owned property and premises and more specifically a hotel known as Homewood Suites by Hilton, including an enclosed dumpster area, accessed by a swinging wooden gate at the exterior portion of said premises located at 42 Clifton County Road, Clifton Park, Saratoga County, New York.

14) At all times hereinafter mentioned, defendant VEEDER MANAGEMENT, owned property and premises and more specifically a hotel known as Homewood Suites by Hilton, including an enclosed dumpster area, accessed by a swinging wooden gate at the exterior portion of said premises located at 42 Clifton County Road, Clifton Park, Saratoga County, New York.

15) At all times hereinafter mentioned, defendant VEEDER SERVICES, owned property and premises and more specifically a hotel known as Homewood Suites by Hilton, including an enclosed dumpster area, accessed by a swinging wooden gate at the exterior portion of said premises located at 42 Clifton County Road, Clifton Park, Saratoga County, New York.

16) At all times hereinafter mentioned, defendant CPHS operated, managed, maintained, and/or controlled premises and more specifically a hotel known as

Homewood Suites by Hilton, including an enclosed dumpster area, accessed by a swinging wooden gate at the exterior portion of said premises located at 42 Clifton County Road, Clifton Park, Saratoga County, New York.

17) At all times hereinafter mentioned, defendant CCM operated, managed, maintained, and/or controlled premises and more specifically a hotel known as Homewood Suites by Hilton, including an enclosed dumpster area, accessed by a swinging wooden gate at the exterior portion of said premises located at 42 Clifton County Road, Clifton Park, Saratoga County, New York.

18) At all times hereinafter mentioned, defendant CP operated, managed, maintained, and/or controlled premises and more specifically a hotel known as Homewood Suites by Hilton, including an enclosed dumpster area, accessed by a swinging wooden gate at the exterior portion of said premises located at 42 Clifton County Road, Clifton Park, Saratoga County, New York.

19) At all times hereinafter mentioned, defendant VEEDER MANAGEMENT, operated, managed, maintained, and/or controlled premises and more specifically a hotel known as Homewood Suites by Hilton, including an enclosed dumpster area, accessed by a swinging wooden gate at the exterior portion of said premises located at 42 Clifton County Road, Clifton Park, Saratoga County, New York.

20) At all times hereinafter mentioned, defendant VEEDER SERVICES, operated, managed, maintained, and/or controlled premises and more specifically a hotel known as Homewood Suites by Hilton, including an enclosed dumpster area, accessed by a swinging wooden gate at the exterior portion of said premises located at 42 Clifton County Road, Clifton Park, Saratoga County, New York.

21) The amount in controversy exceeds the sum of ONE HUNDRED THOUSAND (\$100,000) Dollars, exclusive of interest and costs.

22) This Court has jurisdiction over this matter, pursuant to 28 U.S.C. 1332, since the parties are citizens of diverse states, and the amount in controversy exceeds the sum of ONE HUNDRED THOUSAND (\$100,000) DOLLARS.

23) Venue is properly placed in the United States District Court for the Northern District of New York since the occurrence complained of took place in Saratoga County, State of New York within the Northern District of New York.

**AS AND FOR A FIRST CAUSE OF ACTION  
ON BEHALF OF PLAINTIFF TIMOTHY W. WEISFLOG**

24) On or about June 17, 2022, and prior thereto, the wooden gate of said dumpster area contained a latch designed to hold and secure said gate in a closed position.

25) On or about June 17, 2022, and prior thereto defendant CPHS was under a duty, responsibility, and obligation to maintain all interior and exterior areas of said premises, including all walkways, passageways and other areas including the enclosed dumpster area, accessed by a swinging wooden gate and the wooden gate's latch in a safe condition, free of hazards and defects.

26) On or about June 17, 2022, and prior thereto defendant CMM was under a duty, responsibility, and obligation to maintain all interior and exterior areas of said premises, including all walkways, passageways and other areas including the enclosed dumpster area, accessed by a swinging wooden gate and the wooden gate's latch in a safe condition, free of hazards and defects.

27) On or about June 17, 2022, and prior thereto defendant CP was under a duty, responsibility, and obligation to maintain all interior and exterior areas of said premises,

including all walkways, passageways and other areas including the enclosed dumpster area, accessed by a swinging wooden gate and the wooden gate's latch in a safe condition, free of hazards and defects.

28) On or about June 17, 2022, and prior thereto defendant VEEDER MANAGEMENT was under a duty, responsibility, and obligation to maintain all interior and exterior areas of said premises, including all walkways, passageways and other areas including the enclosed dumpster area, accessed by a swinging wooden gate and the wooden gate's latch in a safe condition, free of hazards and defects.

29) On June 17, 2022, and prior thereto defendant VEEDER SERVICES was under a duty, responsibility, and obligation to maintain all interior and exterior areas of said premises, including all walkways, passageways and other areas including the enclosed dumpster area, accessed by a swinging wooden gate and the wooden gate's latch in a safe condition, free of hazards and defects.

30) On or about June 17, 2022, plaintiff, TIMOTHY W. WEISFLOG was a guest at said hotel known as Homewood Suites by Hilton at the aforesaid location.

31) On June 17, 2022, plaintiff TIMOTHY W. WEISFLOG was lawfully frequenting the exterior area of said premises and walking and/or ambulating adjacent to the enclosed dumpster area and its wooden gate.

32) On June 17, 2022, and prior thereto, defendants, their agents, servants, and/or employees knew and/or should have known that hotel guests would walk and/or ambulate on the walkways, passageways and other areas including the enclosed dumpster area, accessed by a swinging wooden gate.

33) At all times hereinafter mentioned, it was the duty of the defendants, their agents, servants and employees to keep said outside areas including all walkways, passageways and other areas including the enclosed dumpster area, wooden gate, and the gate latch of the wooden gate in a reasonably safe condition, in proper repair, free from defects, in a condition to be and remain secured when closed and in compliance with all codes, rules, regulations, statutes and/or ordinances.

34) On or about June 17, 2022, and for a considerable period of time prior thereto, the exterior of said premises and more specifically the wooden gate and gate latch adjacent to the enclosed dumpster area were in a defective, hazardous, dangerous, unsafe condition and in a state of disrepair, thereby creating a menace, danger, hazard and nuisance to life and limb as well as a trap to hotel guests standing and/or walking adjacent to dumpster area and its wooden gate and more particularly the plaintiff, TIMOTHY W. WEISFLOG.

35) On June 17, 2022, while plaintiff TIMOTHY W. WEISFLOG was lawfully at the aforesaid premises standing and/or walking in the exterior of said premises and more specifically, in the area adjacent to the enclosed dumpster area and its wooden gate, due to the unsafe condition, and/or failure to operate, maintain, manage, control, and/or repair said wooden gate and its gate latch, said wooden gate violently and without warning suddenly swung open striking plaintiff and thereby causing him severe and permanent personal injuries.

36) Defendants, their agents, servants, and/or employees knew and/or should have known that hotel guests would walk and or stand in the area where plaintiff was standing and or walking prior to said occurrence taking place.

37) Defendants, their agents, servants, and/or employees knew and/or should have known of the dangerous, hazardous, and unsafe condition of the dumpster's wooden gate and gate latch. That these dangerous, hazardous, and unsafe conditions existed for a sufficient length of time to be discovered and/or remedied by these defendants, their agents, servants, and/or employees.

38) The foregoing was caused without any fault or negligence on the part of the plaintiff contributing thereto.

39) The negligence of the defendants, their servants, agents, employees, consisted of recklessly and carelessly owning and/or operating, and/or managing, and/or controlling and/or repairing said dumpster area and its wooden gate and/or door latch; in failing to provide a safe place for plaintiff to stand or walk; in allowing and permitting said wooden gate and/or gate latch to be in a state of disrepair; that said wooden gate lack sufficient equipment and/or controls; that the wooden gate and gate latch were improperly maintained; in failing to properly inspect the wooden gate and/or door latch and remedy its dangerous and unsafe condition; in failing to have an adequate and proper wooden gate, gate latch and/or other device to allow said wooden gate to be closed securely and not swing open; in failing to properly secure said wooden gate and gate latch; in failing to block access to this area to members of the public; in failing to place warning about the dangers posed by this dangerous condition; in failing to warn of the freely swinging gate at this location; in exposing plaintiff to unnecessary risks and/or peril; in allowing and permitting the aforesaid wooden gate and gate latch, walkways and passageways to be and become dangerous, defective, unsafe and in a state of disrepair thereby creating a trap, menace, hazard to life and limb and a nuisance, in



allowing and permitting said wooden gate to be a hazard capable of striking and causing injury to any individual standing and/or walking in close proximity thereto; in failing to take steps to prevent the occurrence herein mentioned from happening; in failing to take steps to prevent the wooden gate from swinging open and not capable of being properly closed, locked, or secured; in failing to have proper and/or sufficient latches and/or other safety devices at the aforesaid wooden gate to prevent it from swinging open and striking persons adjacent thereto; in failing to take those steps which were necessary and proper so as to keep the aforesaid area in a safe condition; in failing to post signs and/or warnings of said dangerous condition; in failing to inspect said area and remedy the condition thereat; in failing to place guards about the defective area to prevent the public from walking and/or standing adjacent thereto; in failing to exercise due and reasonable care in and about the premises; in failing to have sufficient and efficient personnel; in failing to comply with the laws, rules, codes, statutes, ordinances and regulations in such cases made and provided; in failing to take steps to prevent the type of occurrence herein complained of defendant, its agents, servants, and/or employees were otherwise careless and negligent in and about the premises.

40) By reason of the foregoing, plaintiff TIMOTHY W. WEISFLOG sustained severe and grievous permanent personal injuries; was rendered sick, sore, lame and disabled, sustained neurological injuries including, a subdural hematoma, concussion, brain damage and orthopedic injury to his leg, foot and neck, suffered and continues to suffer mental anguish, anxiety and depression; required surgery, and was confined to hospital, bed and home for a lengthy period of time and may, in the future be so confined; was

and still is and may in the future be incapacitated from attending to his usual duties and vocation, suffered and continues to suffer financial loss, has and may in the future be required to expend funds for his medical care, treatment, and rehabilitation, suffered and continues to suffer from loss of enjoyment to life and this plaintiff was otherwise damaged.

41) By reason of the foregoing, plaintiff, TIMOTHY W. WEISFLOG is entitled to recover from the Defendants for all the damages which he has suffered and will continue to suffer.

**AS AND FOR A SECOND CAUSE OF ACTION  
ON BEHALF OF PLAINTIFF LYNDIA WEISFLOG**

42) Plaintiff, LYNDIA WEISFLOG repeats, realleges and reiterates each and every allegation contained in paragraphs numbered "1" through "41" inclusive, with the same force and effect if more fully and at length set forth below.

43) That at all times heretofore mentioned, LYNDIA WEISFLOG was and still is the lawful wife of plaintiff, TIMOTHY W. WEISFLOG.

44) That as the lawful wife of plaintiff, TIMOTHY W. WEISFLOG, this plaintiff was and is entitled to the love, society, companionship, consortium, and support of her husband.

45) That as a result of the aforesaid incident, this plaintiff has been deprived and will in the future be deprived of the love, society, companionship, consortium and support of her husband and this plaintiff was otherwise damaged.

46) That by reason of the foregoing, plaintiff, LYNDIA WEISFLOG is entitled to recover from the defendants for all of the damages which she has suffered and will continue to suffer.

**WHEREFORE**, plaintiffs demand judgment against the defendants, jointly and severally herein in an amount to be determined during the trial of this action, together with interest and the costs and disbursements.

Dated: May 23, 2024  
New York, New York

Yours etc.,



Michael V. Kaplen, Esq.  
DE CARO & KAPLEN, LLP  
228 East 45<sup>th</sup> Street, Suite 1100  
New York, NY 10017  
(212) 732 2262  
[michael@brainlaw.com](mailto:michael@brainlaw.com)

Local counsel to:  
The Brain Injury Law Center  
Stephen M. Smith, Esq.  
The Brain Injury Law Center  
27 West Queensway  
Hampton, VA 23669  
(757) 244 7000